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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,627	02/20/2004	Neal A. Bhadkamkar	345288016US	7205
25096	7590	09/28/2007		
PERKINS COIE LLP PATENT-SEA P.O. BOX 1247 SEATTLE, WA 98111-1247			EXAMINER DEBELIE, MITIKU W	
			ART UNIT 2621	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/783,627

Applicant(s)

BHADKAMKAR ET AL.

Examiner

Mitiku Debelie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1 - 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/07/2005.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 04/07/2005 has been considered by the examiner.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 13 is rejected under 35 U.S.C 101 because the claimed invention is directed to non-statutory subject matter as follows. Claim 13 defines computer program product for synchronizing a set of video data to a set of audio data, which does not impart functionality to a computer or computing device, and is thus considered nonfunctional descriptive material. Such nonfunctional descriptive material, in the absence of a functional interrelationship with a computer, does not constitute a statutory process, machine, manufacture or composition of matter and is thus non-statutory per se.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

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USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1 - 14 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 – 14 of U.S. Patent No. 6,728,678.

Although the conflicting claims are not identical, they are not patentably distinct from each other because:

Claim 1	Claim 1 of Patent No. 6,728,678
<p>A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps of:</p> <p>defining a correspondence between an original set of audio data and an original set of video data such that the original set of audio data and the original set of video data are synchronized;</p>	<p>For use with an audiovisual display system in which an original set of audio data and a related original set of video data can be used to generate an audiovisual display at a normal display rate, a method for enabling the apparent display rate of the audiovisual display to be varied from the normal display rate, the method comprising the steps of:</p> <p>defining a correspondence between the original set of audio data and the original</p>

<p>creating a modified set of audio data that corresponds to the original set of audio data;</p> <p>establishing a correspondence between the modified set of audio data and the original set of video data; and</p> <p>creating a modified set of video data that corresponds to the original set of video data, based on the modified set of audio data and the correspondence between the modified set of audio data and the original set of video data, such that the modified set of video data is synchronized with the modified set of audio data.</p>	<p>set of video data such that the original set of audio data is synchronized with the original set of video data; determining a target display rate or rates for the audiovisual display including evaluating the audio and/or video data to automatically determine the value of the target display rate including: analyzing the original set of audio data including ascertaining the stress with which spoken portions of the audio data are uttered; and calculating the target display rate based upon the analysis of the original set of audio data including calculating the target display rate or rates based upon the relative stresses of the spoken portions of the audio data; creating a blended audio sample, wherein the blended audio sample is associated with a portion of a first audio sample and a portion of an adjacent second audio sample; creating a modified set of audio data, based upon the target display rate or rates and an</p>
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	<p>evaluation of the content of the original set of audio data, that corresponds to the original set of audio data; and creating a modified set of video data, wherein the modified set of video data is associated with the blended audio sample, and wherein the modified set of video data is based upon the modified set of audio data, the correspondence between the modified set of audio data and the original set of audio data, and the correspondence between the original set of audio data and the original set of video data such that the modified set of video data is synchronized with the modified set of audio data.</p>
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9/13/07  
Claim 1 of the application is ~~so~~ broad that it <sup>encompasses</sup> ~~reads on~~ claim 1 of the corresponding patented application.

Claim 2	Claim 7 of Patent No. 6,728,678
<p>A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1 wherein the step of defining a correspondence between the original set of audio data and the original set of video data comprises the steps of: dividing the original set of video data into a plurality of subunits, each representing a substantially equal duration of time;</p>	<p>For use with an audiovisual display system in which an original set of audio data and a related original set of video data can be used to generate an audiovisual display at a normal display rate, a method for enabling the apparent display rate of the audiovisual display to be varied from the normal display rate, the method comprising the steps of: defining a correspondence between the original set of audio data and the original set of video data such that the original set of audio data is synchronized with the original set of video data; determining a target display rate or rates for the audiovisual display; creating a blended audio sample, wherein the blended audio sample is associated with a portion of a first audio sample and a portion of an adjacent second audio sample; creating a modified set of audio data, based upon the target display rate or rates and an evaluation of the content</p>

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	<p>of the original set of audio data, that corresponds to the original set of audio data, including: (i) dividing the original set of audio data into a plurality of segments, each segment representing a contiguous portion of the original set of audio data that occurs during a specified duration of time, each segment being adjacent to one or two other segments such that there are no gaps between segments and adjacent segments do not overlap;</p> <p>(v) identifying as part of the modified set of audio data the audio data from the first segment that is not part of the first segment overlap data; and (vi) blending corresponding first segment overlap data and second segment overlap data;</p>
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Claim 2 of the application is ~~so~~ <sup>encompasses</sup> broad that it ~~reads on~~ <sup>reads on</sup> claim 7 of the corresponding patented application.



**Regarding claim 3**, claim 3 recites, "A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1 wherein establishing a correspondence between the modified set of audio data and the original set of video data is based upon the correspondence between the modified set of audio data and the original set of audio data and the correspondence between the original set of audio data and the original set of video data." This claim reads on claim 1 above.

**Regarding claim 4**, claim 4 recites, "A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1 wherein the step of creating a modified set of video data comprises the steps of: identifying one or more partial or complete subunits of the original set of video data that correspond to audio segments of the modified set of audio data, based upon the correspondence between the modified set of audio data and the original set of video data; and modifying the subunits of the original set of video data as necessary to produce the modified set of video data so that there is a one-to-one correspondence between audio segments of the modified set of audio data and subunits of the modified set of video data." This claim reads on claim 1 above.

**Regarding claim 5**, all the limitations of this claim have been addressed in relation to claim 4 with the exception of the limitation, "grouping the modified set of audio data into audio segments." This limitation reads on the limitation "and creating a modified set of video data, wherein the modified set of video data is associated with the blended audio sample, and wherein the modified set of video data is based upon the

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modified set of audio data, the correspondence between the modified set of audio data and the original set of audio data, and the correspondence between the original set of audio data and the original set of video data such that the modified set of video data is synchronized with the modified set of audio data”, which is a limitation of claim 14 of the corresponding application.

<b>Claim 6</b>	<b>Part of claim 8 of Patent No. 6,728,678</b>
A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1 wherein the step of creating a modified set of video data comprises the steps of: grouping the modified set of audio data into audio segments, each segment representing a duration of time that is approximately coincident with and substantially equal to the duration of time of a subunit of video data; identifying one or more partial or complete	A computer program product for use with an audiovisual display system in which an original set of audio data and a related original set of video data can be used to generate an audiovisual display at a normal display rate, for enabling the apparent display rate of the audiovisual display to be varied from the normal display rate, the computer program product being embodied in a computer readable medium and comprising computer instructions for: calculating the target display rate based upon the analysis of the original set of audio data including calculating the target display rate or rates based upon the relative stresses of the

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subunits of the original set of video data that correspond to each of the audio segments of the modified set of audio data, based upon the correspondence between the modified set of audio data and the original set of video data; and	spoken portions of the audio data; creating a blended audio sample, wherein the blended audio sample is associated with a portion of a first audio sample and a portion of an adjacent second audio sample; creating a modified set of audio data, based upon the target display rate or rates and an evaluation of the content of the original set of audio data, that corresponds to the original set of audio data; and creating a modified set of video data, wherein the modified set of video data is associated with the blended audio sample, and wherein the modified set of video data is based upon the modified set of audio data, the correspondence between the modified set of audio data and the original set of audio data, and the correspondence between the original set of audio data and the original set of video data such that the modified set of video data is synchronized with the modified set
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	of audio data.
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Claim 6 of the application is ~~so~~ <sup>encompasses</sup> broad that it ~~reads on~~ claim 8 of the corresponding patented application.

**Regarding claim 7**, claim 7 recites, "A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1 wherein the step of creating a modified set of video data comprises the steps of: grouping the modified set of audio data into audio segments, each segment representing a duration of time that is approximately coincident with and substantially equal to the duration of time of a frame of video data; identifying one or more partial or complete frames of the original set of video data that correspond to each of the audio segments of the modified set of audio data, based upon the correspondence between the modified set of audio data and the original set of video data; and modifying the frames of the original set of video data as necessary to produce the modified set of video data so that there is a one-to-one correspondence between audio segments of the modified set of audio data and frames of the modified set of video data." This claim reads on claim 6 above.

**Regarding claim 8**, the corresponding patented application is silent on a method of synchronizing a set of video to a set of audio data that is being played at a variable rate comprising the steps recited in claim 1, wherein the step of creating a modified set of video data includes the step of eliminating data from the original set of video data.

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However it is old and well known that video data (e.g. B-frame or P-frame) are eliminated or added to the existing video data. Official notice is taken.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention eliminate or add video data to the system disclosed by the corresponding patent in order to compensate for the difference in the number of frame.

**Regarding claim 9**, grounds for rejecting claim 8 apply for claim 9 in its entirety.

**Regarding claim 10**, claim 10 recites, "A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1, wherein the step of creating a modified set of video data includes the step of blending data from the original set of video data so that the modified set of video data has less data than the original set of video data." This claim reads on claim 8 above.

**Regarding claim 11**, claim 11 recites, "A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1, wherein the step of creating a modified set of video data includes the step of synthesizing data, based on the data in the original set of video data, so that the modified set of video data has more data than the original set of video data." This claim reads on claim 8 above.

Claim 12	Part of claim 8 of Patent No. 6,728,678
A method of synchronizing a set of video data to a set of audio data that is being played at a variable rate comprising the steps recited in Claim 1, further comprising the steps of:  generating an audio display from the modified set of audio data; and  generating a video display from the modified set of video data.	A computer program product for use with an audiovisual display system in which an original set of audio data and a related original set of video data can be used to generate an audiovisual display at a normal display rate, for enabling the apparent display rate of the audiovisual display to be varied from the normal display rate, the computer program product being embodied in a computer readable medium and comprising computer instructions for

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Claim 12 of this application is ~~so~~ <sup>encompasses</sup> broad that it ~~reads on~~ <sup>encompasses</sup> claim 8 of the corresponding application.

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**Regarding claim 13**, claim 13 recites, "A computer program product for synchronizing a set of video data to a set of audio data that is being played at a variable rate, the computer product being embodied in a computer readable medium and comprising computer instructions for: defining a correspondence between an original set of audio data and an original set of video data such that the original set of audio data and the original set of video data are synchronized;" This claim reads on claim 1 above.

**Regarding claim 14**, claim 14 is a system claim corresponding to the apparatus claim 13. Therefore, claim 14 is rejected as previously discussed with respect to claim 13.

### ***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitiku Debelie whose telephone number is (571) 270 1706. The examiner can normally be reached on Mon - Fri 8:00 - 5:00 ET.

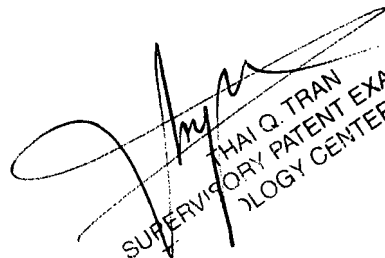
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on (571) 272 7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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